

MONTANA LEGISLATIVE HISTORY

Chapter 235 19 91

Bill H 302 S \_\_\_\_\_ Original bill & history C

H. Committee on Judiciary

Hearing Date(s) Jan 28 ☒ C

\_\_\_\_\_ ☐ C

\_\_\_\_\_ ☐ C

\_\_\_\_\_ ☐ C

Date Out Jan 28 ☒ C

S. Committee on Judiciary

Hearing Date(s) Mar 12 ☒ C

\_\_\_\_\_ ☐ C

\_\_\_\_\_ ☐ C

\_\_\_\_\_ ☐ C

Mar 12 ☒ C

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Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

## HOUSE FINAL STATUS

HB 307

|      |                                                       |    |   |
|------|-------------------------------------------------------|----|---|
| 1/21 | INTRODUCED                                            |    |   |
| 1/21 | REFERRED TO HIGHWAYS & TRANSPORTATION                 |    |   |
| 1/22 | FIRST READING                                         |    |   |
| 2/05 | HEARING                                               |    |   |
| 2/13 | COMMITTEE REPORT—BILL PASSED AS AMENDED               |    |   |
| 2/16 | 2ND READING PASSED AS AMENDED                         | 88 | 7 |
| 2/19 | 3RD READING PASSED                                    | 93 | 6 |
|      | TRANSMITTED TO SENATE                                 |    |   |
| 2/20 | FIRST READING                                         |    |   |
| 2/20 | REFERRED TO HIGHWAYS & TRANSPORTATION                 |    |   |
| 3/05 | HEARING                                               |    |   |
| 3/28 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED            |    |   |
| 4/03 | 2ND READING CONCURRED                                 | 50 | 0 |
| 4/04 | 3RD READING CONCURRED                                 | 50 | 0 |
|      | RETURNED TO HOUSE WITH AMENDMENTS                     |    |   |
| 4/08 | 2ND READING AMENDMENTS NOT CONCURRED                  | 93 | 3 |
| 4/09 | CONFERENCE COMMITTEE APPOINTED                        |    |   |
| 4/18 | CONFERENCE COMMITTEE REPORT NO. 1                     |    |   |
| 4/19 | 2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 94 | 4 |
| 4/19 | 3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 93 | 6 |
|      | SENATE                                                |    |   |
| 4/16 | CONFERENCE COMMITTEE APPOINTED                        |    |   |
| 4/18 | CONFERENCE COMMITTEE REPORT NO. 1                     |    |   |
| 4/19 | 2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 49 | 0 |
| 4/20 | 3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 47 | 0 |
| 4/24 | SIGNED BY SPEAKER                                     |    |   |
| 4/24 | SIGNED BY PRESIDENT                                   |    |   |
| 4/24 | TRANSMITTED TO GOVERNOR                               |    |   |
| 4/27 | SIGNED BY GOVERNOR                                    |    |   |
|      | CHAPTER NUMBER 686                                    |    |   |

EFFECTIVE DATE: 4/27/91

HB 307 INTRODUCED BY QUILICI, ET AL

CHANGE FILING TIME FOR CRIME VICTIM COMPENSATION FOR  
SEX OFFENSES TO MINORS

|      |                                         |     |   |
|------|-----------------------------------------|-----|---|
| 1/21 | INTRODUCED                              |     |   |
| 1/21 | REFERRED TO JUDICIARY                   |     |   |
| 1/22 | FIRST READING                           |     |   |
| 1/22 | FISCAL NOTE REQUESTED                   |     |   |
| 1/25 | FISCAL NOTE RECEIVED                    |     |   |
| 1/26 | FISCAL NOTE PRINTED                     |     |   |
| 1/28 | HEARING                                 |     |   |
| 1/28 | COMMITTEE REPORT—BILL PASSED AS AMENDED |     |   |
| 1/31 | 2ND READING PASSED                      | 100 | 0 |
| 2/02 | 3RD READING PASSED                      | 95  | 0 |
|      | TRANSMITTED TO SENATE                   |     |   |
| 2/04 | FIRST READING                           |     |   |
| 2/04 | REFERRED TO JUDICIARY                   |     |   |
| 3/12 | HEARING                                 |     |   |
| 3/12 | COMMITTEE REPORT—BILL CONCURRED         |     |   |
| 3/14 | 2ND READING CONCURRED                   | 48  | 0 |
| 3/15 | 3RD READING CONCURRED                   | 48  | 0 |
|      | RETURNED TO HOUSE                       |     |   |
| 3/22 | SIGNED BY SPEAKER                       |     |   |
| 3/23 | SIGNED BY PRESIDENT                     |     |   |
| 3/25 | TRANSMITTED TO GOVERNOR                 |     |   |

3/29 SIGNED BY GOVERNOR  
CHAPTER NUMBER 235

EFFECTIVE DATE: 10/01/91

HB 308 INTRODUCED BY MENAHAN, ET AL.  
AUTHORIZE PUNCHBOARD & PULLTAB GAMBLING

1/21 INTRODUCED  
1/21 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT  
1/22 FIRST READING  
1/22 FISCAL NOTE REQUESTED  
1/28 FISCAL NOTE RECEIVED  
1/29 FISCAL NOTE PRINTED  
2/12 HEARING  
DIED IN COMMITTEE

HB 309 INTRODUCED BY D. BROWN, ET AL.  
PORTION OF GASOLINE TAX ALLOCATED FOR  
OFF-HIGHWAY VEHICLE PURPOSES

|      |                                         |    |    |
|------|-----------------------------------------|----|----|
| 1/21 | INTRODUCED                              |    |    |
| 1/21 | REFERRED TO HIGHWAYS & TRANSPORTATION   |    |    |
| 1/22 | FIRST READING                           |    |    |
| 1/22 | FISCAL NOTE REQUESTED                   |    |    |
| 1/26 | FISCAL NOTE RECEIVED                    |    |    |
| 1/26 | FISCAL NOTE PRINTED                     |    |    |
| 2/12 | HEARING                                 |    |    |
| 2/16 | COMMITTEE REPORT—BILL PASSED AS AMENDED |    |    |
| 2/19 | 2ND READING PASSED                      | 67 | 33 |
| 2/23 | 3RD READING PASSED                      | 62 | 35 |
|      | TRANSMITTED TO SENATE                   |    |    |
| 2/25 | FIRST READING                           |    |    |
| 2/25 | REFERRED TO HIGHWAYS & TRANSPORTATION   |    |    |
| 3/14 | HEARING                                 |    |    |
| 3/21 | REVISED FISCAL NOTE PRINTED             |    |    |
| 3/21 | COMMITTEE REPORT—BILL CONCURRED         |    |    |
| 3/23 | 2ND READING CONCURRED AS AMENDED        | 47 | 0  |
| 3/25 | 3RD READING CONCURRED                   | 47 | 1  |
|      | RETURNED TO HOUSE WITH AMENDMENTS       |    |    |
| 4/08 | 2ND READING AMENDMENTS CONCURRED        | 88 | 9  |
| 4/09 | 3RD READING AMENDMENTS CONCURRED        | 82 | 16 |
| 4/25 | SIGNED BY SPEAKER                       |    |    |
| 4/25 | SIGNED BY PRESIDENT                     |    |    |
| 4/25 | TRANSMITTED TO GOVERNOR                 |    |    |
| 4/29 | SIGNED BY GOVERNOR                      |    |    |
| 4/29 | SIGNED BY GOVERNOR                      |    |    |
|      | CHAPTER NUMBER 698                      |    |    |

EFFECTIVE DATE: 7/01/91

HB 310 INTRODUCED BY HOFFMAN, ET AL.  
CLARIFY CRIME OF ESCAPE INCLUDES ESCAPE  
WHILE IN TRANSIT TO AND FROM DETENTION  
BY REQUEST OF DEPARTMENT OF JUSTICE

|      |                                         |    |   |
|------|-----------------------------------------|----|---|
| 1/21 | INTRODUCED                              |    |   |
| 1/21 | REFERRED TO JUDICIARY                   |    |   |
| 1/22 | FIRST READING                           |    |   |
| 2/04 | HEARING                                 |    |   |
| 2/05 | COMMITTEE REPORT—BILL PASSED AS AMENDED |    |   |
| 2/07 | 2ND READING PASSED                      | 99 | 1 |
| 2/09 | 3RD READING PASSED                      | 94 | 0 |
|      | TRANSMITTED TO SENATE                   |    |   |
| 2/11 | FIRST READING                           |    |   |
| 2/11 | REFERRED TO JUDICIARY                   |    |   |
| 3/07 | HEARING                                 |    |   |

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on January 28, 1991,  
at 9:06 a.m.

#### ROLL CALL

##### Members Present:

Bill Strizich, Chairman (D)  
Vivian Brooke, Vice-Chair (D)  
Arlene Becker (D)  
William Boharski (R)  
Dave Brown (D)  
Robert Clark (R)  
Paula Darko (D)  
Budd Gould (R)  
Royal Johnson (R)  
Vernon Keller (R)  
Thomas Lee (R)  
Bruce Measure (D)  
Charlotte Messmore (R)  
Linda Nelson (D)  
Jim Rice (R)  
Angela Russell (D)  
Jessica Stickney (D)  
Howard Toole (D)  
Tim Whalen (D)  
Diana Wyatt (D)

Staff Present: John MacMaster, Leg. Council Staff Attorney  
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

#### HEARING ON HB #307 CHANGE FILING TIME FOR CRIME VICTIM COMPENSATION FOR SEX OFFENSES TO MINORS

##### Presentation and Opening Statement by Sponsor:

REP. QUILICI, HOUSE DISTRICT 71, stated the bill is asking that the timing be extended to accept crime victim compensation in cases of sexual offenses against minors. This bill will clarify that sexual offenses against minors do not have to be reported within 72 hours. The reason for this is because in some cases

the minor might not report it to a parent or an adult they trust and this gives them a chance to extend that time to make sure, if there is such an offense, they can come under the victims compensation program. The bill was drafted with a mistake and there are some amendments that will make the bill do as we are asking it to do. EXHIBIT 1

Proponents' Testimony:

Ed Hall, Montana Board of Crime Commission, stated the victims issues are growing across the forefront in Montana. Within the last fiscal year, 89-90, there has been a 25% increase in claims filed, 45% increase in claims filed by women, 49% increase in files claimed for females under the age of 18. A large portion of victims are females that are sexually abused. Children who are abused tend to become abusers in the future.

Cheryl Bryant, Crime Victim Unit, gave written testimony in favor of HB #307. EXHIBIT 2

Mike McGrath, Montana County Attorney's Association, stated what has happened over the past few years, we have a number of victims of sexual assault who are minors and do not report sexual assault immediate. They may feel guilty, ashamed, or the offender has threatened the victim to not say anything and they are very frightened. They are sometimes not report for months or years. The child needs to find someone they can trust and confide in. The victims need treatment in most cases. Sexual crimes are often caused by people who were sexual victims themselves at one time in their lives. If they would have received counseling for the abuse when they were young, they may have been able to deal with it when they became an adult. This bill has been designed to correct the problems that victims of sexual abuse have and to assist the staff at the Board of Crime Control so they don't have to be in a situation of knowing when they can or cannot award compensation to these victims.

Opponents' Testimony: none

Questions From Committee Members:

REP. MEASURE asked Ms. Bryant if she could explain to him the issue we are addressing with this bill? He doesn't see a problem with the bill as it is, because the adult can tell the board that the child was abused when he was a minor. The 72 hour clause is all that is needed here. Ms. Bryant said only the cases of a sexually abused child does not have to provide good cause when reporting. Sometimes, it is the people we are dealing with. They don't have a lot of drive and do not initiate reporting the incident. By the time the County Attorney has been informed, is well past the 72 hour deadline.

REP. BROOKE asked Mike McGrath with the extension of the statute of limitations passed last session, could you tell us how it will

relate to crime victims being compensated. Mr. McGrath said "It will work together like hand-in-glove."

REP. TOOLE asked Mr. McGrath if it would be possible to tie the problem of a child in a situation of being a step-child and the mother not wanting to report because it will cause problems for her and the step-father with a clause saying a minor could report the incident up to one year after their 18th birthday. Mr. McGrath said "sure."

Closing by Sponsor:

REP. QUILICI, stated when they first introduced the bill, the number one factor was innocent victim of crime. A minor in almost every case is an innocent victim of crime, when talking about adults, sometimes that adult could be a victim but also a perpetrator. In that case, the person would not be an innocent victim of crime. This is why we want to differentiate between those two and let it be known that sexual offenses against minors are covered under this act and given time to file their claim for restitution.

HEARING ON HB #379  
GOOD TIME CREDIT FOR PAROLEES

Presentation and Opening Statement by Sponsor:

REP. BROOKE, HOUSE DISTRICT 56, this bill is an act providing for good time credit for persons on parole. This bill was recommended to the Governor by the Criminal Justice and Corrections Advisory Council. The council was composed of Legislators and people in law enforcement from around Montana. HB #379 represents an amendment to title 53, chapter 30, section 105 of the Montana Codes Annotated. This particular chapter addresses good time for adult felons. Good time means credit an inmate would have on his or her sentence that was imposed by the courts. These credits can add up and do reduce a persons prison sentence. Inmates earn credit by maintaining a incident free security record, by enrolling in prison education programs and by participating in self-improvement programs sponsored by the correctional facilities. At the present time, a person may not earn good time while he or she is on parole or probation. HB #379 is an effort to expand this good time system into the area of parole.

Proponents' Testimony:

REP. KASTEN, HOUSE DISTRICT 28, stated we realize that we cannot build ourselves out of the overcrowding in prisons. This bill address this problem. If we can influence the prisoners to go about getting their paroles earlier it will have a positive effect on the overcrowding problem.

EXECUTIVE ACTION ON HB #307

Motion: REP. BROWN MOVED HB 307 DO PASS.

Motion/Vote: REP. BROWN moved to amend HB 307 EXHIBIT 1  
Motion carried.

Discussion:

REP. GOULD asked REP. TOOLE if he was going to put an amendment in regarding the step-child or the child that doesn't report the incident until the age of 18. REP. TOOLE said he would like to add something to the bill that would refer to those minors that do not report the crime until they are 18 and moved away from home or whatever. If it were the committees wish I could work on it another day.

REP. BROWN said Rep. Toole stated part of the problem was people don't get to the point where they can feel comfortable about talking about it until they emancipated, yet we are talking about changing it to the age of 18, aren't those one in the same dates?

REP. TOOLE said yes, but speaking in a situation where the law enforcement is brought in to initiate a proceeding against a perpetrator, yet the child victim is unable to proceed to seek compensation because the mother is unwilling to go against the step-father. In this circumstance, this would deny the child's capability.

John MacMaster, said to do what Rep. Toole wants to do, you can go to page 1, line 22, and insert after the word services, "or within 1 year after the day the victim reaches 18 years of age, whichever occurs last".

Motion: REP. TOOLE moved to amend HB 307 with the amendment stated by John MacMaster.

Discussion:

REP. BROOKE stated the amendment does not go far enough in light of what we did in the statutes of limitations last session. The statutes of limitations goes farther than 1 year after 18 for prosecution. I think it should go hand in hand to what they receive for victims compensation.

REP. BROWN stated in part you have to remember that the victim compensation fund does go dry. We are opening it up substantially to those people who should have access now. We are not cutting off the people who find later in their adult life to file a victims claim.

REP. RICE stated this was not a problem that the proponents pointed out in their testimony. I feel we should not mess with it and leave it as it is.

Vote: Motion carried 16 to 4 with Rep's: Rice, Nelson, Johnson, and Brooke voting no.

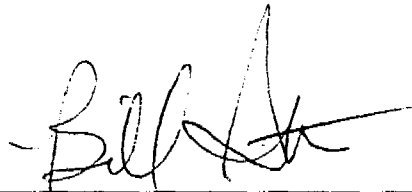
Motion/Vote: REP. BROWN MOVED HB 307 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB #33

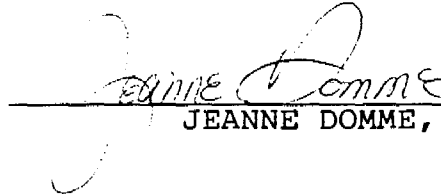
Motion/Vote: REP. BROWN MOVED SB 33 DO BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT

Adjournment: 10:20 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

# HOUSE OF REPRESENTATIVES

## JUDICIARY COMMITTEE

ROLL CALL

DATE

Jan. 28, 1991

NAME

PRESENT

ABSENT

EXCUSED

|                                |   |  |  |
|--------------------------------|---|--|--|
| REP. VIVIAN BROOKE, VICE-CHAIR | / |  |  |
| REP. ARLENE BECKER             | / |  |  |
| REP. WILLIAM BOHARSKI          | / |  |  |
| REP. DAVE BROWN                | / |  |  |
| REP. ROBERT CLARK              | / |  |  |
| REP. PAULA DARKO               | / |  |  |
| REP. BUDD GOULD                | / |  |  |
| REP. ROYAL JOHNSON             | / |  |  |
| REP. VERNON KELLER             | / |  |  |
| REP. THOMAS LEE                | / |  |  |
| REP. BRUCE MEASURE             | / |  |  |
| REP. CHARLOTTE MESSMORE        | / |  |  |
| REP. LINDA NELSON              | / |  |  |
| REP. JIM RICE                  | / |  |  |
| REP. ANGELA RUSSELL            | / |  |  |
| REP. JESSICA STICKNEY          | / |  |  |
| REP. HOWARD TOOLE              | / |  |  |
| REP. TIM WHALEN                | / |  |  |
| REP. DIANA WYATT               | / |  |  |
| REP. BILL STRIZICH, CHAIRMAN   | / |  |  |
|                                |   |  |  |
|                                |   |  |  |
|                                |   |  |  |
|                                |   |  |  |

1170  
1-25-91  
JDB

# HOUSE STANDING COMMITTEE REPORT

January 28, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 307 (first reading copy -- white) do pass as amended .

Signed: [Signature]  
Bill Strizich, Chairman

And, that such amendments read:

1. Page 1, line 22.

Following: "services"

Insert: ", or within 1 year after the day the victim reaches 18 years of age, whichever occurs last"

2. Page 2, lines 10 and 11.

Following: "officer." on line 10

Strike: the remainder of line 10 through "the" on line 11

Insert: "The"

3. Page 2, line 12.

Following: "or"

Strike: "unless"

Insert: ", except in a case involving a sexual offense against a minor or when"

Amendments to House Bill No. 307  
First Reading Copy

Requested by Quilici  
For the Committee on Judiciary

Prepared by Bart Campbell  
January 23, 1991

1. Page 2, lines 10 and 11.

Following: "officer." on line 10

Strike: the remainder of line 10 through "the" on line 11

Insert: "The"

2. Page 2, line 12.

Following: "ex"

Strike: "unless"

Insert: ", except in a case involving a sexual offense against a  
minor or when"

Exhibit 2  
1-28-91

HB307 TESTIMONY

EXHIBIT 2  
DATE 1-28-91  
HB 301

Cheryl Bryant  
Crime Victims Unit

The Crime Victims Compensation Act has two time limits. The first limit is a requirement to report the crime to law enforcement within 72 hours or have good cause why it was not reported. The second time limit is a requirement to file the claim within one year of the crime or have good cause why not.

In the early 80's we began to receive claims where the victim was a sexually abused minor. These children usually did not tell anyone about the crime for a time, in some cases, a considerable amount of time. We used the good cause provision to automatically extend the time limit. The time limit began to run when the claimant, who is always an adult, learned of the crime. The claimant was requested to provide good cause if the adult claimant did not report to law enforcement within 72 hours. Two requests were sent. In many cases, the adult claimant simply did not respond, did not provide any reason at all to extend the time.

The one year filing limit worked the same way. The time was automatically extended to the date the claimant learned of the crime. The adult claimant was asked to provide good cause why the claim was not filed within one year of when the adult claimant learned of the crime.

EX. 2

1-28-91

HB 307

There have been 1,295 claims filed for minor victims since the beginning of the program in January, 1978. While not all of these are sexually abused children, the majority are. Only one claim has been denied because there was no report at all to law enforcement. Thirty-nine claims were denied because the report was late and the adult claimant did not provide good cause to extend the time limit.

While we have the authority to extend both time limits, we do not have the authority to ignore the law and award benefits when no good cause has been provided. Changing the law would allow an award of benefits in these cases.

Σx. 2

1-28-91  
HB 307

Claims filed since 1/1/78

|               |              |
|---------------|--------------|
| minor victims | 1,295        |
| adult victims | <u>2,249</u> |
|               | 3,544        |

Claims denied for no report to law enforcement

|               |           |
|---------------|-----------|
| minor victims | 1         |
| adult victims | <u>24</u> |
|               | 25        |

Claims denied for late report to law enforcement-no good cause provided by adult claimant to extend the time

|               |           |
|---------------|-----------|
| minor victims | 39        |
| adult victims | <u>16</u> |
|               | 55        |

Claims denied for not filing within one year-no good cause provided by adult claimant to extend the time

|               |           |
|---------------|-----------|
| minor victims | 29        |
| adult victims | <u>12</u> |
|               | 41        |

|                                 |           |           |
|---------------------------------|-----------|-----------|
| Claims filed FY 78 (six months) | 16        | \$2,643   |
| Claims filed FY 79              | 93        | \$84,720  |
| Claims filed FY 90              | 434       | \$343,390 |
| secondary                       | <u>56</u> |           |
|                                 | 490       |           |
| Claims filed FY 91 (1/24/91)    | 239       | \$258,282 |

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO. HB #307

DATE 1-28-91

SPONSOR(S) Rep. Quilici

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING      | SUPPORT | OPPOSE |
|------------------|-------------------|---------|--------|
| MIKE M'GRATH     | MT CIVIL RIGHTS   | X       |        |
| Ed Hall          | MBCC              | X       |        |
| Cheryl Bryant    | Crime Victim Unit | X       |        |
|                  |                   |         |        |
|                  |                   |         |        |
|                  |                   |         |        |
|                  |                   |         |        |
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|                  |                   |         |        |
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|                  |                   |         |        |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on March 12, 1991, at 10:00 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)  
Bill Yellowtail, Vice Chairman (D)  
Robert Brown (R)  
Bruce Crippen (R)  
Steve Doherty (D)  
Lorents Grosfield (R)  
Mike Halligan (D)  
John Harp (R)  
Joseph Mazurek (D)  
David Rye (R)  
Paul Svrcek (D)  
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON HOUSE BILL 307

Presentation and Opening Statement by Sponsor:

Representative Joe Quilici, District 71, told the Committee HB 307 extends the filing time requirements for cases involving sexual offenses against minors. He said present law requires that a crime must be reported to law enforcement officers within 72 hours or that good cause be shown. Representative Quilici explained that HB 307 eliminates the 72 hour requirement, and said the funding is actuarially sound and would not affect compensation.

Proponents' Testimony:

John Connor, Montana County Attorneys, told the committee that Mike McGrath, Lewis and Clark County Attorney is in Appropriations and could not be present, but the bill came about through Mr. McGrath's office. He said child abuse victims are unable to get compensation, when they have not reported in time, and that these cases then require administrative review to waive the time requirement. Mr. Connor explained that he does not believe that is

productive, and said these reporting requirements are sometimes unrealistic.

Cheryl Bryant, Crime Victims Unit, Department of Justice, read from prepared testimony in support of HB 307 (Exhibit #1). She said victims can report incidents within 72 hours or show good cause and file claims within one year or show good cause now. Ms. Bryant explained that some claims are denied because the adults to no respond to show good cause. She said about 1300 claims have been filed since January 1978, and a great majority of these are sexually abused minors.

Colette Baumgardner, Legislative Aide, Democratic Women's Caucus for the House and Senate, stated Caucus support of HB 307.

Mike McGrath, Lewis & Clark County Attorney, said he was also representing the County Attorneys Association. He said there have been problems over the years getting counseling compensation for sexual assault victims, and that the bill would resolve this issue.

#### Opponents' Testimony:

There were no opponents of HB 307.

#### Questions From Committee Members:

There were no questions form the Committee.

#### Closing by Sponsor:

Representative Quilici said he believes the bill is an important amendment to the Crime Victims Compensation Act, and asked the Committee to pass HB 307.

### HEARING ON HOUSE BILL 211

#### Presentation and Opening Statement by Sponsor:

Representative Dorothy Bradley, District 79, said the purpose of HB 211 is to amend the rape statutes to include homosexual rape. She said the bill was requested and written by the Gallatin County Attorney's office, and that this is particularly important with regard to victims who are children.

Representative Bradley advised the Committee that eliminating "persons of the opposite sex" takes the penalty up to 40 years. She said that if the offender is a minor the county attorney can petition to transfer the case to the district court.

Representative Bradley explained an incident in Gallatin County where a 17 year old male molested two girls, ages 7 and 8,

something wrong, but where the insurance company is wrong and will end up paying.

Senator Crippen commented that he used to adjust insurance years ago, and would never have leveraged policy limits, as that would be a violation of ethics. He further commented that many things have changed now. Eric Thueson replied that the whole purpose of leveraging a case to settle, is that the victim is still being victimized. He stated it bothers him that a case can be leveraged for less than it is worth.

Senator Mazurek advised Eric Thueson that is covered at the top of page 4 of the bill. Mr. Thueson replied it does not apply to this situation.

Senator Crippen said it might appear the insured is liable. He cited an example where a mechanic recently worked on a vehicle, and asked if the insured would be admitting liability if payments were made immediately. Eric Thueson replied he didn't think that would happen, and would be covered by the Rules of Evidence.

Senator Doherty asked if it is good public policy to shift the burden to other insurance companies when the liability is reasonably clear. John Maynard replied that the amendment recognizes situations where there is no collateral source.

Senator Doherty asked why there is concern if this is current policy. Joan Maynard replied the amendments provide for a new cause of action in which there could be additional new lawsuit and a new cause of action.

Senator Doherty stated that, based on a case he is dealing with, he did not believe the State Farm Insurance information was true.

Closing by Sponsor:

Representative Measure said he was surprised by some of the testimony at this hearing. He stated that Rule 411 covers possibilities addressed by Senator Crippen, and said the law now stands for plaintiff's attorneys. He commented that if Jacqueline Terrell was correct in her statement that this law already exists, "we should get on with it".

EXECUTIVE ACTION ON HOUSE BILL 307

Motion:

Senator Brown made a motion that HB 307 BE CONCURRED IN.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Brown carried unanimously. Senator Van Valkenburg will carry the bill.

Discussion of HOUSE BILL 391

Senator Rye advised the Committee he would vote no on the bill, as he feels defining clergy is very difficult. Senator Halligan explained that under existing law, it is anyone who holds himself to be a leader of a parish or group in solemnization.

Senator Towe commented that he had an amendment which might help. Valencia Lane explained the amendments with the gray bill attached (Exhibit #6).

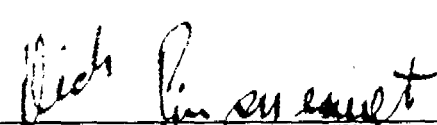
Senator Halligan made a motion to strike subparagraph (iii), on page 3 of the bill before dealing with the Towe amendment.

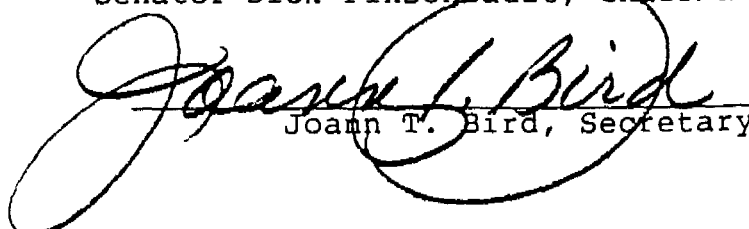
Senator Mazurek stated that gets to the very fundamental right of priests and confession. Senator Halligan replied that is covered in (I) on page 2 of the bill.

Senator Svrcek expressed asked to delay executive action on HB 391 since half of the Committee members were gone, and the bill raises some issues. Chairman Pinsonneault agreed to delay executive action until Saturday, March 16, 1991.

ADJOURNMENT

Adjournment At: 11:50 a.m.

  
Senator Dick Pinsonneault, Chairman

  
Joann T. Bird, Secretary

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52<sup>nd</sup> LEGISLATIVE SESSION -- 1991

Date 3-12-91

| NAME             | PRESENT | ABSENT | EXCUSED |
|------------------|---------|--------|---------|
| Sen. Pinsoneault | ✓       |        |         |
| Sen. Yellowtail  | ✓       |        |         |
| Sen. Brown       | ✓       |        |         |
| Sen. Crippen     | ✓       |        |         |
| Sen. Doherty     | ✓       |        |         |
| Sen. Grosfield   | ✓       |        |         |
| Sen. Halligan    | ✓       |        |         |
| Sen. Harp        | ✓       |        |         |
| Sen. Mazurek     | ✓       |        |         |
| Sen. Rye         | ✓       |        |         |
| Sen. Svrcek      | ✓       |        |         |
| Sen. Towe        | ✓       |        |         |
|                  |         |        |         |
|                  |         |        |         |
|                  |         |        |         |

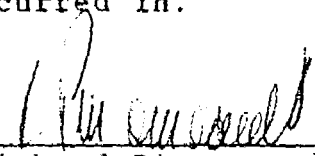
Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 12, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 307 (third reading copy -- blue), respectfully report that House Bill No. 307 be concurred in.

Signed:   
Richard Pinsoneault, Chairman

3-12-91  
And. Coord.

                      
Sec. of Senate

531223SC.Sj1

Exhibit #1  
3-12-91  
HB 307

HB307 TESTIMONY

Cheryl Bryant  
Crime Victims Unit

The Crime Victims Compensation Act has two time limits. The first limit is a requirement to report the crime to law enforcement within 72 hours or have good cause why it was not reported. The second time limit is a requirement to file the claim within one year of the crime or have good cause why not.

In the early 80's we began to receive claims where the victim was a sexually abused minor. These children usually did not tell anyone about the crime for a time, in some cases, a considerable amount of time. We used the good cause provision to automatically extend the time limit. The time limit began to run when the claimant, who is always an adult, learned of the crime. The claimant was requested to provide good cause if the adult claimant did not report to law enforcement within 72 hours. Two requests were sent. In many cases, the adult claimant simply did not respond, did not provide any reason at all to extend the time.

The one year filing limit worked the same way. The time was automatically extended to the date the claimant learned of the crime. The adult claimant was asked to provide good cause why the claim was not filed within one year of when the adult claimant learned of the crime.

Ex. 1

3-12-91

HB 307

There have been 1,295 claims filed for minor victims since the beginning of the program in January, 1978. While not all of these are sexually abused children, the majority are. Only one claim has been denied because there was no report at all to law enforcement. Thirty-nine claims were denied because the report was late and the adult claimant did not provide good cause to extend the time limit.

While we have the authority to extend both time limits, we do not have the authority to ignore the law and award benefits when no good cause has been provided. Changing the law would allow an award of benefits in these cases.

2x 1  
3-12-91

Claims filed since 1/1/78

|               |              |
|---------------|--------------|
| minor victims | 1,295        |
| adult victims | <u>2,249</u> |
|               | 3,544        |

Claims denied for no report to law enforcement

|               |           |
|---------------|-----------|
| minor victims | 1         |
| adult victims | <u>24</u> |
|               | 25        |

Claims denied for late report to law enforcement-no good cause provided by adult claimant to extend the time

|               |           |
|---------------|-----------|
| minor victims | 39        |
| adult victims | <u>16</u> |
|               | 55        |

Claims denied for not filing within one year-no good cause provided by adult claimant to extend the time

|               |           |
|---------------|-----------|
| minor victims | 29        |
| adult victims | <u>12</u> |
|               | 41        |

|                                 |           |           |
|---------------------------------|-----------|-----------|
| Claims filed FY 78 (six months) | 16        | \$2,643   |
| Claims filed FY 79              | 93        | \$84,720  |
| Claims filed FY 90              | 434       | \$343,390 |
| secondary                       | <u>56</u> |           |
|                                 | 490       |           |
| Claims filed FY 91 (1/24/91)    | 239       | \$258,282 |

DATE

8-12-91

COMMITTEE ON

Judiciary

HB

## VISITORS' REGISTER

211-269-270-307-735

| NAME                  | REPRESENTING                                       | BILL #        | Check One |        |
|-----------------------|----------------------------------------------------|---------------|-----------|--------|
|                       |                                                    |               | Support   | Oppose |
| Andace K. Kellow      | Womens <del>to</del> Place                         | 269<br>270    | X<br>X    |        |
| STAR JAMESON          | VICTIMS OF RAPE                                    | 270           | ✓         |        |
| BETTY WING            | MSLA CHILD PROTECTIVE TEAM<br>MISSOURI CO ATTORNEY | 269<br>270    | X         |        |
| L. G. Hall            | State Farm Ins                                     | 735           |           | X      |
| WE PHILLIPS           | WAT. ASSOC. IND. INS.<br>ALLIANCE INER. INS        | 735           |           | X      |
| Neil Brand            | Criminal Victims Unit                              | 307           | ✓         |        |
| Tom Hopgood           | HTH Ins Assoc America                              | HB 735        |           | ✓      |
| Tom Hamboldt          | PARENTS Ins. Group                                 | HB 735        |           | X      |
| John Maynard          | State Farm                                         | HB 735        |           | X      |
| Kette Baumgardner     | Democratic Women's Caucus                          | HB 307        | ✓         |        |
| "                     | "                                                  | HB 269        | ✓         |        |
| "                     | "                                                  | HB 270        | ✓         |        |
| James Duggitt         | Womens Law Section State Bar                       | HB 307        | ✓         |        |
| "                     | "                                                  | HB 269        | ✓         |        |
| "                     | "                                                  | HB 270        | ✓         |        |
| Eric Thuesen          | Montana Trial Lawyers                              | HB 735        | X         |        |
| Randy Dix             |                                                    | HB 735        | X         |        |
| Lee Silvers           | Center for Sexual Health<br>Mental Health Services | 269<br>HB 270 | X         |        |
| John Connor           | MT County Attys Assn                               | HB 307        | X         |        |
| John Connor           | " " " "                                            | 269<br>HB 270 | X         |        |
| John Connor           | " " " "                                            | HB 211        | X         |        |
| Marqueline T. Jirrell | Am Ins. Assoc                                      | HB 735        |           | X      |
| U. Brent Cromley      | Rep.                                               | HB 735        |           | X      |